

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 14, 2002

DIVISION TWO

[illegible]

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

DIVISION THREE

Court convened at 9:30 A.M.

Present: Klein, P.J., Croskey, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

Each of the following:

B150189 People v. Knight
B154926 Children and Family Services v. Colin P.
B157416 Monica D., v. S.C.L.A.
B144808 Chen, et al. v. Dynasty Escrow, Inc., et al.
B154660 Children and Family Services v. Danielle F.
B154445 People v. Danny H.
B154024 Children and Family Services v. Gilbert F.
B152152 People v. Bulmes
B152588 Russo v. Digital Domain, Inc.
B152488 People v. Mouton
B144034 People v. Lemus
B154561 People v. Moore
B151514 People v. Matthew A.

Argument waived, cause submitted.

DIVISION THREE (Continued)

B147765 Lizza
 v.
 City of Avalon et al.

Merits:

Argued by Phillip K. Fife for appellant, by Pamela A. Albers, deputy city attorney, for respondent and by Jason Sawyer for real party in interest. Cause submitted.

B149676 People
 v.
 Arredondo

Merits:

Argued by Robert Bryzman for appellant Arredondo, by Theresa A. Cochrane, deputy attorney general, for respondent and by Shirley S.N. Sun, deputy district attorney, for appellant The People. Cause submitted.

B149569 McClellan
 v.
 Sadat et al.

Merits:

Argued by Warren K. Miller for appellant and by Marc A. Karlin and Geordan Goebel for respondents. Cause submitted.

B155271 Los Angeles County, D.C.F.S.
 v.
 Raylene T.

Merits:

Argued by Harry Zimmerman for appellant and by Stephanie Jo Farrell, deputy county counsel, for respondent. Cause submitted.

DIVISION THREE (Continued)

B146714 Eller Media Company
v.
City of Los Angeles et al.

Merits:

Argued by Paul A. Jacobs for appellant and by Michael L. Klekner, deputy city attorney, for respondents. Cause submitted.

B124962 People v. Jackson
B147513 In re Denneth Jackson on Habeas Corpus

Merits:

Argued by Laura Schaefer for appellant and petitioner and by Analee J. Nations, deputy attorney general for respondent. Appellant's supplemental brief due by May 20, 2002, respondent's reply due May 28, 2002. Submission deferred.

Court recessed at 12:15 P.M.

Court reconvened at 1:30 P.M.

Present: Klein, P.J., Croskey, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

B145792 Attorney Equity National Corp.
v.
Chang et al.

Merits:

Argued by Sun C. Chen for appellants and by John E. Douglass for respondent. Cause submitted.

DIVISION THREE (Continued)

B148904 St. Paul Fire & Marine Insurance Co., et al.
 v.
 American Dynasty Surplus Lines Insurance Co., et al.

Merits:

Argued by Brian Edward Claypool for appellants and by Larry Nathenson for respondents. Respondent supplemental brief due May 29, 2002, appellant's reply due June 13, 2002. Submission deferred.

Court adjourned at 2:40 P.M.

DIVISION FIVE

B150592 Laura Dee Zahn (Not for Publication)
 v.
 Charles Loggins

The judgment is affirmed. Respondent Charles Loggins is awarded his costs on appeal.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Mosk, J.

B147859 Leight Sales Co., Inc. (Not for Publication)
 v.
 Willilam A. Miller et al.

The judgment is affirmed. Respondent to recover costs on appeal.

Armstrong, J.

We concur: Turner, P.J.
 Grignon, J.

DIVISION FIVE (Continued)

B150363 Abelardo Avila (Not for Publication)
 v.
 City of Long Beach et al.

The judgment is affirmed. Respondents to recover costs on appeal.

Armstrong, J.

We concur: Grignon, Acting P.J.
 Mosk, J.

B149032 Jorge Carreon et al. (Not for Publication)
 v.
 AHM SMA, Inc., et al.

The judgment is affirmed. Defendants are to recover their costs on appeal.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

B147075 People (Not for Publication)
 v.
 Alberto Beltran et al.

The judgment is affirmed.

Mosk, J.

We concur: Turner, P.J.
 Grignon, J.

B146376 Theodore J. Lettelleir Jr.
 v.
 Patricia Lettelleir

Filed order denying petition for rehearing.

DIVISION SIX

B151606 City of Malibu (Certified for Publication)
 v.
 Santa Monica Mountains Conservancy et al.

The judgment of the trial court is reversed in part and affirmed in part. The parties shall bear their own costs.

Gilbert, P.J.

We concur: Yegan, J.
 Coffee, J.

DIVISION SEVEN

B149845 People (Not for Publication)
 v.
 Steven L. Nixon

The judgment is reversed in part. The jury's verdict of conviction remains in effect. The case is remanded to the superior court for (1) the appointment or retention of new counsel, (2) a motion for new trial and (3) resentencing if the motion for a new trial is denied.

Perluss, J.

We concur: Lillie, P.J.
 Johnson, J.

B152629 Daysi Dung (Not for Publication)
 v.
 Inter-Con Security Systems, Inc., et al.

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

DIVISION SEVEN (Continued)

B149691 People (Not for Publication)
v.
Fidel Flores et al.

The order setting aside and dismissing the true finding for the Penal Code section 186.22 allegation as to Flores is reversed with orders to reinstate that finding and to resentence Flores.

As to defendant Torres, the jury has rejected self-defense and made a finding that the killing was not justified. Therefore, the best that Torres could have received from a properly instructed jury was a conviction of involuntary manslaughter. (*People v. Blakeley, supra*, 23 Cal.4th 82.)

However, Torres has not had a chance to present the theory of imperfect self-defense to a properly instructed jury. It may be, for whatever reason, that the People may be satisfied with a conviction for involuntary manslaughter – a decision we neither suggest nor discourage. However, the People are entitled to retry Torres and seek to obtain another conviction for murder. The record is clearly sufficient to justify his retrial.

The judgment as to Torres is reversed with directions as follows: If the People within 60 days from the issuance of the remittitur file a written demand for new trial, such a trial shall take place; if no such demand is made, the trial court shall proceed as if the remittitur constituted a finding of manslaughter (Pen. Code, § 192, subd. (1)), and on that 60th day, proceed to resentence the defendant. (See *People v. Garcia* (1972) 27 Cal.App.3d 639, 647-648.)

Munoz, J. (Assigned)

We concur: Johnson, Acting P.J.
Perluss, J.

B155752 Thelma Sue Tutorow (Not for Publication)
v.
Jacqueline Mae Gerber

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Lillie, P.J.
Johnson, J.

May 14, 2002-Continued

DIVISION SEVEN (Continued)

B148992 People (Not for Publication)
v.
Willis Vaughn

The judgment is affirmed.

Woods, J.

We concur: Lillie, P.J.
 Johnson, J.

115995

The HONORABLE AURELIO MUNOZ, Judge of the Los Angeles Superior Court, Los Angeles County, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Seven, as a Justice thereof, on the following dates:

May 10, 2002 To July 31, 2002

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: May 10, 2002

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

DIVISION SEVEN (Continued)

B151885 Los Angeles County, D.C.F.S.
 v.
 Heriberto C.
 In re Jesusa V., a minor

Filed order denying petition for rehearing. J. Woods would grant the petition.

B151449 People
 v.
 Kindle

Filed order vacating submission order of May 2, 2002, so that Court can hear oral argument on May 30, 2002 at 9:00 A.M